

MARY ANN SMITH
Deputy Commissioner
SEAN ROONEY
Assistant Chief Counsel
ALEX M. CALERO (State Bar No. 238389)
Senior Counsel
Department of Business Oversight
1350 Front Street, Room 2034
San Diego, California 92101
Telephone: (619) 523-4044
Attorneys for Complainant

**BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA**

In the Matter of:

NMLS NO.: 1374025

THE COMMISSIONER OF BUSINESS
OVERSIGHT,

STATEMENT OF ISSUES IN SUPPORT OF
NON-ISSUANCE OF MORTGAGE LOAN
ORIGINATOR LICENSE

Complainant,

v.

TODD JOSEPH KREJCI, an individual,

Respondent.

The Commissioner of Business Oversight (Commissioner) is informed and believes, and based upon such information and belief, alleges and charges as follows:

I.

Introduction

The Commissioner has determined not to issue a mortgage loan originator (MLO) license to Todd Joseph Krejci (Krejci) because Krejci fails to meet the minimum threshold requirement that he demonstrates such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently.

Specifically, Krejci's application for an MLO license should be denied because Krejci: (1) was the subject of a regulatory action by the National Futures Association (NFA) for misleading clients, resulting in Krejci being barred from the commodities industry for three years and ordered to pay a fine of \$25,000.00 if he later applies for a license from the NFA; (2) filed for bankruptcy three times, once in 2009, 2012, and 2013; and (3) was the subject of a foreclosure proceeding.

The NFA action against Krejci and his financial history demonstrate Krejci's failure to show the requisite financial responsibility, character, and general fitness and to warrant a determination that he will operate honestly and fairly as a mortgage loan originator.

II.

The Application

On or about January 11, 2017, Krejci filed an application for a mortgage loan originator license with the Commissioner. Krejci's application was submitted to the Commissioner by filing Form MU4 through the Nationwide Mortgage Licensing System (NMLS).

Form MU4 at Questions A(1) and (3) ask: "(1) Have you filed a personal bankruptcy petition or been the subject of an involuntary bankruptcy petition within the past 10 years?" and "(3) Have you been the subject of a foreclosure action within the past 10 years?" Krejci answered "yes" to both questions.

Form MU4 at Questions K(2), (4)-(9) ask:

Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:

...

(2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?

...

(4) entered an order against you in connection with a financial services-related activity?

(5) revoked your registration or license?

(6) denied or suspended your registration or license or application for licensure, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?

(7) barred you from association with an entity regulated by such commissions, authority, agency, or office or from engaging in a financial services-related business?

(8) issued a final order against you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?

(9) entered an order concerning you in connection with any license or registration?

Krejci answered “yes” to all of the questions listed above.

Also, Form MU4 at Questions P(2) and (3) ask:

Have you ever been named as a respondent/defendant in a financial services-related consumer-initiated arbitration or civil litigation which:

...

(2) resulted in an arbitration award or civil judgment against you, regardless of amount, or that required corrective action?

(3) was settled for any amount?

Krejci answered “yes” to both questions.

When submitting the Form MU4, applicants use an electronic signature to attest, under penalty of perjury, that the information contained in an application is current, complete and accurate. Krejci’s mortgage loan originator license application reads, in part:

I Todd Joseph Krejci (1374025) . . . swear (or affirm) that I executed this application on my own behalf, and agree to and represent the following:

...

That the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part of this application, are current, true, accurate and complete and are made under the penalty of perjury, or un-sworn falsification to authorities, or similar provisions as provided by law.

...

If an Applicant has made a false statement of a material fact in this application or in any documentation provided to support the foregoing application, then the foregoing application may be denied.

III.

Personal Bankruptcy and Foreclosure

Krejci stated in the Form MU4 that he filed Chapter 7 Bankruptcy on October 30, 2009. In providing details about the bankruptcy, Krejci stated he filed for bankruptcy because he lost his job and was unable to pay his bills. Also, Krejci stated he was unable to come to terms with his mortgage lender and lost his home in foreclosure.

1 On December 20, 2012 and February 19, 2013, Krejci filed for Chapter 13 Bankruptcy.
2 However, the bankruptcy records Krejci provided shows that both of these bankruptcy petitions were
3 dismissed because Krejci failed to file all of the required paperwork with the Bankruptcy Court.

4 **IV.**

5 **Regulatory Action**

6 Krejci stated in the Form MU4 that he was subject to a regulatory action for financial services-
7 related conduct. In providing details about the regulatory action, Krejci stated he was an employee of
8 Cogito Asset Management, a registered commodity trading advisor, and the National Futures
9 Association (NFA), a regulator for the commodities industry, filed an administrative complaint against
10 Krejci. According to the administrative complaint:

11 Krejci's sales solicitations were also deficient in that they contained
12 misleading statements which exaggerated profit potential, downplayed risk
13 of loss, and failed to disclose the impact of commissions on the profitability
of customers' accounts.

14 As a result, Krejci was charged with two regulatory violations: NFA Compliance Rules 2-2(a)
15 and 2-29(a)(1). NFA Compliance Rule 2-2(a) states no NFA member or associate shall "[c]heat,
16 defraud or deceive, or attempt to cheat, defraud or deceive any commodity futures customer." NFA
17 Compliance Rule 2-29(a)(1) states no NFA member or associate shall make any communication with
18 the public which "operates as a fraud or deceit."

19 Krejci made a settlement offer to the NFA, where he neither admitted or denied the allegations
20 set forth in the complaint. The NFA accepted Krejci's settlement offer but found that Krejci violated
21 Rule 2-2(a) and Rule 2-29(a)(1). On or about January 17, 2012, Krejci was placed on a three-year bar
22 from the NFA as a member, associate, or principal. And if Krejci re-applies after the bar, he would be
23 charged a \$25,000.00 fine and the facts and violations alleged in the complaint shall be deemed
24 admitted by Krejci and can be used as the sole basis for denying Krejci registration in the NFA.

25 **V.**

26 **Consumer-Initiated Arbitration or Civil Judgment**

27 According to Krejci's Form MU4, Krejci was involved in a consumer-initiated arbitration
28 proceeding or civil judgment as evidenced by his "yes" answers to Questions P(2) and (3).

1 On August 15, 2017, the Commissioner's staff requested clarification from Krejci regarding
2 the consumer-initiated arbitration or civil judgment that Krejci references in his MU4. On or about
3 October 5, 2017, Krejci responded to the request for clarification by uploading a copy of the NFA
4 action in support of his "yes" answers to Questions P(2) and (3).

5 It is unclear why Krejci responded "yes" to Questions P(2) and (3), which relate to a
6 consumer-initiated arbitration or civil judgment, because the NFA administrative action is neither an
7 arbitration or civil judgment.

8 In the event, if the Commissioner learns additional evidence about a consumer-initiated
9 arbitration or civil judgment against Krejci, the Commissioner reserves the rights to amend this
10 statement of issues to add the additional facts as a basis for the denial of Krejci's MLO application.

11 VI.

12 Applicable Law

13 Section 22109.1 of the California Financing Law (Fin. Code § 22000 et seq.) (CFL) and section
14 50141 of the California Residential Mortgage Lending Act (Fin. Code § 50000 et seq.) (CRMLA),
15 contain substantially similar language and provide in relevant part:

16 (a) The commissioner shall deny an application for a mortgage loan
17 originator license unless the commissioner makes, at a minimum, the
18 following findings:

19 . . .

20 (3) The applicant has demonstrated such financial responsibility,
21 character, and general fitness as to command the confidence of the
22 community and to warrant a determination that the mortgage loan
23 originator will operate honestly, fairly, and efficiently within the
24 purposes of this division.

25 (Fin. Code, §§ 22109.1 & 50141.)

26 VII.

27 Conclusion

28 The Commissioner finds, by reason of the foregoing, that Krejci was involved in financial
services-related conduct, where he defrauded and misled clients for his own benefit. Additionally,
within the past 10 years, Krejci has filed for Chapter 7 and 13 bankruptcy and had his property
foreclosed on. Krejci's regulatory action and financial history shows he does not have the financial

responsibility, character, and general fitness as to command the confidence of the community and the Commissioner cannot determine that Krejci will be able to operate honestly, fairly, and efficiently within the purposes of the CFL and CRMLA.

THEREFORE, Financial Code sections 22109.1 and 50141 mandate that the Commissioner not issue a mortgage loan originator license to Krejci.

WHEREFORE IT IS PRAYED that the determination of the Commissioner not to issue a mortgage loan originator license to Krejci be upheld.

Dated: January 2, 2018
San Diego, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____

ALEX M. CALERO
Senior Counsel
Enforcement Division